

AMENDED IN SENATE MAY 4, 2016  
AMENDED IN SENATE APRIL 4, 2016

**SENATE BILL**

**No. 1338**

---

**Introduced by Senator Lara**  
*(Coauthors: Senators Beall, Hernandez, Hertzberg, and Pavley)*

February 19, 2016

---

An act to add Section 6377.5 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 1338, as amended, Lara. Sales and use taxes: exemption: zero-emission and near-zero-emission equipment.

Existing sales and use tax laws impose a tax on retailers measured by the gross receipts from the sale of tangible personal property sold at retail in this state, or on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer for storage, use, or other consumption in this state, and provides various exemptions from those taxes.

The bill would exempt from those taxes, on and after January 1, 2017, and before January 1, 2030, the gross receipts from the sale of, and the storage, use, or other consumption of, qualified tangible personal property purchased by a qualified person, as defined, for use primarily in, at, or on a marine terminal or qualified tangible personal property used primarily to maintain, repair, or test the above-described equipment, as provided. The bill would require the purchaser to furnish the retailer with an exemption certificate, as specified.

The Bradley-Burns Uniform Local Sales and Use Tax Law authorizes counties and cities to impose local sales and use taxes in conformity with the Sales and Use Tax Law, and existing law authorizes districts,

as specified, to impose transactions and use taxes in conformity with the Transactions and Use Tax Law, which conforms to the Sales and Use Tax Law. Exemptions from state sales and use taxes are incorporated into these laws.

This bill would specify that this exemption does not apply to local sales and use taxes, transactions and use taxes, and specified state taxes from which revenues are deposited into the Local Public Safety Fund, the Education Protection Account, the Local Revenue Fund, or the Local Revenue Fund 2011.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. (a) The Legislature finds and declares:  
2     (1) California's complex freight transportation system is  
3     responsible for one-third of the state's economy and jobs, with  
4     freight-dependent industries accounting for over \$700 billion in  
5     revenue and over 5 million jobs in 2013, and is home to the largest  
6     gateway for international trade and domestic commerce in the  
7     nation, with an interconnected system of ports, railroads, highways,  
8     and roads that allow goods from around the world to move  
9     throughout the state.  
10    (2) Significant investments in freight infrastructure are necessary  
11    to ensure the continued economic competitiveness of our state's  
12    seaports and to deploy zero-emission and near-zero-emission  
13    equipment. There are additional expenses that accompany  
14    investment in the next generation of zero-emission and  
15    near-zero-emission equipment and supporting infrastructure at  
16    marine terminals in California's public ports.  
17    (3) The primary purpose of this act is to encourage the  
18    development and growth of investment in, and subsequent  
19    increased use of, California's public port facilities and the  
20    introduction of zero-emission and near-zero-emission equipment  
21    and supporting infrastructure at California's public port facilities.  
22    (4) This legislation is necessary to further incentivize the earliest  
23    possible investment in and adoption of zero-emission and  
24    near-zero-emission technology at California's public seaports.  
25    Companies should be encouraged to take on the additional costs

1 of purchasing and maintaining zero-emission equipment and  
2 supporting infrastructure in partnership with the state to achieve  
3 the state's emission reduction goals by reducing those state taxes  
4 which would increase the ultimate cost of these new equipment  
5 and infrastructure investments.

6 (b) It is the intent of the Legislature to incentivize the earliest  
7 possible adoption of zero-emissions technology at California's  
8 public seaports and to eliminate taxes imposed on the purchase of  
9 that equipment that further increase the costs of purchasing and  
10 maintaining zero-emission equipment and supporting infrastructure,  
11 which are already of significantly greater expense than  
12 conventional equipment and infrastructure.

13 SEC. 2. Section 6377.5 is added to the Revenue and Taxation  
14 Code, to read:

15 6377.5. (a) On or after January 1, 2017, and before January  
16 1, 2030, there are exempted from the taxes imposed by this part  
17 the gross receipts from the sale of, and the storage, use, or other  
18 consumption in this state of, any of the following:

19 (1) Qualified tangible personal property purchased for use by  
20 a qualified person to be used primarily in, at, or on a marine  
21 terminal of a California public port for carriage, handling, or  
22 movement of freight, cargo, and goods.

23 (2) Qualified tangible personal property purchased for use by  
24 a qualified person to be used primarily to maintain, repair, measure,  
25 or test any qualified tangible personal property described in  
26 paragraph (1).

27 (b) For purposes of this section:

28 (1) "Primarily" means 50 percent or more of the time.

29 (2) "Qualified person" means a person that is a stevedore, marine  
30 terminal operator, operator of a ~~port~~ *port, rail ramp, rail yard,*  
31 *intermodal facility*, or freight yard, or any other person that is  
32 engaged in cargo and freight loading, delivery, movement, storage,  
33 and conveyance at or within a California public seaport.

34 (3) "Qualified tangible personal property" includes both of the  
35 following:

36 (A) All zero-emission or near-zero-emission equipment used  
37 in conjunction with the movement of goods or freight, including,  
38 but not limited to, computers, data-processing equipment, and  
39 computer software, required to operate, control, regulate, or  
40 maintain the zero-emission or near-zero-emission equipment,

1 together with all repair and replacement parts with a useful life of  
2 one or more years therefor, whether purchased separately or in  
3 conjunction with the equipment and regardless of whether the  
4 machine or component parts are assembled by the qualified person  
5 or another party.

6 (B) Special purpose buildings and foundations used as an  
7 integral part of the process of utilization of zero-emission  
8 equipment or near-zero-emission equipment constitute qualified  
9 tangible personal property to the extent that the sale of, or storage,  
10 use, or other consumption is subject to the imposition of sales or  
11 use tax.

12 (4) “Zero-emission or near-zero-emission equipment” means  
13 equipment, *off-road* vehicles, and related technologies used ~~at a~~  
14 *within the boundaries of a* California public seaport that reduce  
15 or eliminate greenhouse gas emissions and improve air quality  
16 when compared with conventional or fully commercialized  
17 alternatives, as identified by the State Air Resources Board in  
18 consultation with the State Energy Resources Conservation and  
19 Development Commission. “Zero-emission and near-zero-emission  
20 equipment” may include, but is not limited to, enabling  
21 technologies that provide a pathway to emission reductions,  
22 advanced or alternative fuel engines, and hybrid or alternative fuel  
23 technologies for seaport equipment.

24 (c) An exemption shall not be allowed under this section unless  
25 the purchaser furnishes the retailer with an exemption certificate,  
26 completed in accordance with any instructions or regulations as  
27 the board may prescribe, and the retailer retains the exemption  
28 certificate in its records and furnishes it to the board upon request.

29 (d) (1) Notwithstanding the Bradley-Burns Uniform Local Sales  
30 and Use Tax Law (Part 1.5 (commencing with Section 7200)) and  
31 the Transactions and Use Tax Law (Part 1.6 (commencing with  
32 Section 7251)), the exemption established by this section shall not  
33 apply with respect to any tax levied by a county, city, or district  
34 pursuant to, or in accordance with, either of those laws.

35 (2) Notwithstanding subdivision (a), the exemption established  
36 by this section shall not apply with respect to any tax levied  
37 pursuant to Section 6051.2 or 6201.2, pursuant to Sections 35 and  
38 36 of Article XIII of the California Constitution, or any tax levied  
39 pursuant to Sections 6051 or 6201 that is deposited in the State

Treasury to the credit of the Local Revenue Fund 2011 pursuant to Sections 6051.15 or 6201.15.

(e) Notwithstanding subdivision (a), the exemption provided by this section shall not apply to any sale or storage, use, or other consumption of property that, within one year from the date of purchase, is removed from California, converted from an exempt use under subdivision (a) to some other use not qualifying for exemption, or otherwise used in a manner not qualifying for exemption.

(f) This section shall apply to leases of qualified tangible personal property classified as “continuing sales” and “continuing purchases” in accordance with Sections 6006.1 and 6010.1. The exemption established by this section shall apply to the rentals payable pursuant to the lease, provided the lessee is a qualified person and the tangible personal property is qualified tangible personal property used in an activity described in subdivision (a).

(g) (1) Upon the effective date of this section, the Department of Finance shall estimate the total dollar amount of exemptions that will be taken for each calendar year, or any portion thereof, for which this section provides an exemption.

(2) No later than each March 1 next following a calendar year for which this section provides an exemption, the board shall provide to the Joint Legislative Budget Committee a report of the total dollar amount of exemptions taken under this section for the immediately preceding calendar year. The report shall compare the total dollar amount of exemptions taken under this section for that calendar year with the department’s estimate for that same calendar year. If that total dollar amount taken is less than the estimate for that calendar year, the report shall identify options for increasing exemptions taken so as to meet estimated amounts.

SEC. 3. This act provides for a tax levy within the meaning of Article IV of the *California* Constitution and shall go into immediate effect.

CORRECTIONS:

Text—Page 3.

O